

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHARASE DORSEY,

Case No. 1:22-cv-00550

Plaintiff,

v.

Hon. Jane M. Beckering

DETECTIVE WILLIAM ASHLEY,
Individually and in his official capacity;
SHERIFF L. PAUL BAILEY, Individually
and in his official capacities; MICHIGAN
STATE POLICE; BERRIEN COUNTY
SHERIFF'S DEPARTMENT; and any
unknown, yet to be discovered liable persons
or entities,

Defendants.

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**DEFENDANTS BERRIEN COUNTY SHERIFF'S DEPARTMENT, WILLIAM ASHLEY
AND L. PAUL BAILEY'S MOTION TO STRIKE PURSUANT TO RULE 12(f)**

ORAL ARGUMENT REQUESTED

Defendants, Berrien County Sheriff's Department, William Ashley and L. Paul Bailey,
through its counsel, Straub, Seaman & Allen, P.C., Motions this Honorable Court to Strike
Plaintiff's Amended Complaint pursuant to FED. R. CIV. 12(f) due to its untimely filing in

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violation of Court Order and states the following in support:

1. Plaintiff Charase Dorsey filed a Complaint in this Court which appears to allege that she was illegally detained by the named Defendants that resulted in the deprivation of her rights. Plaintiff invoked the jurisdiction of this Court on the basis of 28 U.S.C § 1331. [ECF No.1].

2. On August 9, 2022, these Defendants filed a Motion to Dismiss pursuant to FED. R. CIV. P. 12(b)(6) that requested this Court to dismiss the Complaint in its entirety given Plaintiff's failure to state a claim upon which relief can be granted. [ECF No. 4]. Plaintiff lacked subject matter jurisdiction because Count III was the sole federal claim presented and that Count lacked any substantive relation to an appropriate and applicable federal question. [ECF No. 4 and Supporting Brief at ECF No. 5].

3. On August 15, 2022, the Court issued an Order stating that "Plaintiff must file either (a) an amended complaint within 21 days after service of the motion to dismiss, FED. R. CIV. P. 15(a)(1)(B); or (b) a response to the motion to dismiss within 28 days after service of the motion to dismiss, W.D.Mich LCivR 7.2(c)." [ECF No. 6, Page ID.58].

4. Per the Court Order, Plaintiff was required to either (a) file an amended complaint by August 30, 2022 (21-days after the filing of the Motion to Dismiss) or (b) file a response to the Motion to Dismiss by September 6, 2022 (28-days after the filing of the Motion to Dismiss). [ECF No. 6].

5. Plaintiff filed an Amended Complaint on September 8, 2022. [ECF No. 8].

6. The new Complaint is essentially identical as the initial Complaint and contains the same deficiencies addressed in the Defendants' Motion to Dismiss; the only change is the deletion

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of a prior defendant from the caption. [ECF No. 8 compared to ECF. No. 1]. None of Counts were amended. [ECF No. 8 compared to ECF. No. 1].

7. Plaintiff titled this filing as “Plaintiff’s Complaint and Request for Damages” and not as an amendment. [ECF No. 8].

8. Moreover, like the initial Complaint, Plaintiff’s new Complaint fails to identify any specific, jurisdictional, factual, and/or legal basis for Plaintiff’s alleged claim(s), what state or federal statutory provision or Michigan Common Law claim is specifically being alleged, whom each claim(s) is directed against, or what remedy(ies) Plaintiff is seeking relative to each claim beyond a general recitation of laws (some of which are not even applicable to this State) communicated in a rambling and largely incomprehensible presentation without citation of authority. These are the exact issues address in Defendants’ pending Motion to Dismiss.

9. Therefore, the new Complaint wholly fails to resolve, or address, any of the issues presented in Defendants’ Motion to Dismiss.

10. Additionally, the filing of Amended Complaint was untimely and in violation of the Court Order. [ECF No. 6].

11. Lastly, Plaintiff did not timely file a Response to the Motion to Dismiss (due to be filed on September 6, 2022). [ECF No. 6, Page ID.58].

12. Defendants complied with L. Civ. R. 7.1(d). Counsel for Berrien Defendants e-mailed Plaintiff’s Counsel on September 8, 2022 to obtain concurrence on this motion to strike; no response was received as of the time of this filing. Upon information and belief, the plaintiff does not so concur.

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Wherefore, Defendants pursuant to FED. R. CIV. 12(f) move this Honorable Court to Strike Plaintiff's Amended Complaint and dismiss the case outright because no amendment to any Count was filed, the newly filed complaint was untimely, and no response to the motion to dismiss was filed.

Respectfully submitted,

Dated: September 9, 2022

STRAUB, SEAMAN & ALLEN, P.C.

/s/ James T. McGovern

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Ashley, Sheriff L. Paul Bailey and
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